

June 30 2010

## IN THE SUPREME COURT OF THE STATE OF MONTANA

OP 10-0294

FILED

JUN 29 2010

*Ed Smith*  
CLERK OF THE SUPREME COURT  
STATE OF MONTANA  
ORDER

LLOYD S. MAIER,

Petitioner,

v.

THIRD JUDICIAL DISTRICT COURT,

Respondent.

Lloyd S. Maier (Maier) has filed a petition for a writ of mandamus requesting that we exercise "Advisory Control" over the Third Judicial District Clerk of Court, and has moved to proceed without paying the filing fee.

Maier requested a copy of a psychological report that Dr. Mark Mozer prepared concerning his 2005 request for executive clemency from the Board of Pardons and Parole (Board). Maier states that the Board refused to provide him a copy of the report due to security concerns, and suggested that he seek a copy of the report from prison staff. Maier contends that prison staff take the position that the Board "owns" the report, and also refuse to provide Maier a copy.

Dr. Mozer is required to prepare a report for new executive clemency proceedings, and Maier has refused to be seen by Dr. Mozer for the reason that Maier is not allowed to see the earlier evaluation. Maier states that the Board has canceled the clemency proceedings.

When Maier attempted to file a motion for leave to file an action with the Clerk of the Third Judicial District Court, Powell County, the Clerk sent him a letter advising him that his paperwork was not proper for commencement of a new action, and that he must sign all originals in blue ink so that the clerk knows that they are originals. Maier contends that the Clerk had made judgments for the District Court.

We have determined that it is appropriate that the Board of Pardons and Parole and the Clerk of the Third Judicial District Court or her designee respond to Maier's petition. Therefore,

IT IS ORDERED that the request for leave to proceed without paying the filing fee is GRANTED.

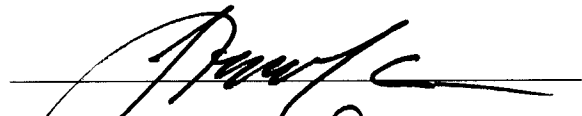
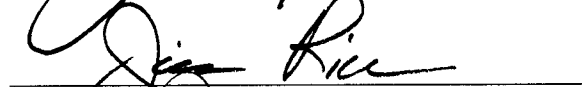
IT IS FURTHER ORDERED that the Board of Pardons and Parole and the Warden of the Montana State Prison are granted 30 days to file a response explaining their justification for refusing to provide Maier a copy of the report. If the Board and Warden continue to refuse to provide a copy of the psychological report to Maier, IT IS ORDERED that the Board and/or Warden provide a copy of the report to the Clerk of the Supreme Court as an exhibit to the response, under seal, as provided for in M. R. App. P. 10(7).

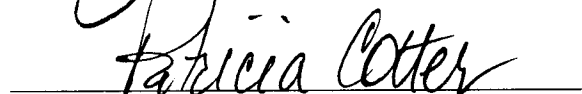
IT IS FURTHER ORDERED that the Clerk of the Third Judicial District Court is granted 30 days to file a response explaining the justification for requiring inmates to sign all in blue ink, and refusing to file the documents Maier sent to the Clerk for filing.

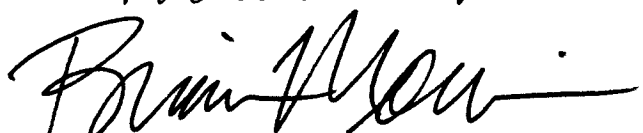
The Clerk of this Court is directed to give notice of this Order to Maier, to the Board of Pardons and Parole, to the Warden at Montana State Prison, and to the Clerk of the Third Judicial District Court.

DATED this 29<sup>th</sup> day of June, 2010.

  
Chief Justice



  
Justices